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JUN 24 2002

OFFICE OF PETITIONS

In re Application of	:	
Tuttle et al.	:	
Application No. 10/045,766	:	DECISION GRANTING
Filed: October 23, 2001	:	PETITION
Attorney Docket No. 5000.142	:	

This is a decision on the petition filed March 22, 2002, requesting that the above-identified application be accorded a filing date of October 23, 2001, rather than the presently accorded date of January 15, 2002. The petition is properly treated as a petition under 37 CFR 1.10(c).


The petition is **GRANTED**.

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U. S. Postal Service (USPS) as Express Mail on October 23, 2002 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EL921582080US showing an illegible handwritten "date-in". The same Express Mail receipt number appears on the original "Transmittal for Patent Application," which includes the Express Mail label number. Additionally, the Express Mail label number appears on the Certificate of Mailing by "Express Mail" and includes a statement of express mailing dated October 23, 2001 on the cover page for the application papers. Petitioner has provided other evidence; a copy of the USPS Product Tracking System – Label Event Details and a copy of the USPS Web Page Shipment History for Express Mail label No. EL921582080US.

In view of the evidence provided, the USPS Product Tracking System – Label Event Details and the USPS Shipment History, it is concluded that the application was deposited as "Express Mail" with the USPS on October 23, 2001.

This application file is being forwarded to the Office of Initial Patent Examination Division for further **processing with a filing date of October 23, 2001**. Thereafter, the application file will be forwarded to Technology Center 2811 for examination in due course.

Telephone inquiries concerning this matter may be directed to Marianne Morgan at (703) 306-3475.

A handwritten signature in black ink, appearing to read "Brian Hearn". The signature is fluid and cursive, with the first name "Brian" and last name "Hearn" clearly distinguishable.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy